

**IC 34-53**

**ARTICLE 53. SUBROGATION**

**IC 34-53-1**

**Chapter 1. Subrogation of Insurers in Personal Injury Actions**

**IC 34-53-1-1**

**Applicability of chapter**

Sec. 1. This chapter applies to an insurer claiming subrogation or reimbursement rights to the proceeds of a settlement or judgment resulting from a legal proceeding commenced by an insured against a third party legally responsible for personal injury for which payment is made by the insurer.

*As added by P.L.1-1998, SEC.49.*

**IC 34-53-1-2**

**Costs and expenses of asserting third party claim; payment by insurer out of amount received from insured**

Sec. 2. An insurer claiming subrogation or reimbursement rights under this chapter shall pay, out of the amount received from the insured, the insurer's pro rata share of the reasonable and necessary costs and expenses of asserting the third party claim. These reasonable and necessary costs and expenses include and are not limited to the following:

- (1) The cost of depositions.
- (2) Witness fees.
- (3) Attorney's fees to the lesser of:
  - (A) the amount contracted by the insured for the insured's portion of the claim; or
  - (B) thirty-three and one-third percent (33 1/3%) of the amount of the settlement.

*As added by P.L.1-1998, SEC.49.*

**IC 34-53-1-3**

**Effect on insurer's right to settle subrogation claim separately**

Sec. 3. This chapter does not prohibit an insurer with a subrogated property damage claim from settling the insurer's subrogation claim separately by arbitration, agreement, or suit in the insurer's own name.

*As added by P.L.1-1998, SEC.49.*